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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 310265.90261

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on 4-19-07

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Application Number	Filed
09/524,826	03/14/2000

First Named Inventor: Paul C. Tang

Art Unit	Examiner
3626	Russell Glass

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☑ attorney or agent of record. Registration number 37,551
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

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April 19, 2007
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 4 forms are submitted.

Matter No. 310265.90261

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Date of Signature And Deposit 4-19-07

Michael A. Jaskolski Reg. No. 37,551

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Paul C. Tang et al
Serial No.:	09/524,826
Filed:	03/14/2000
Title:	ELECTRONIC MEDICAL RECORDS SYSTEM WITH ACTIVE CLINICAL GUIDELINES
Art Unit:	3626
Examiner:	Russell Glass
File No.:	310265.90261

Pre-Appeal Brief Remarks

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria Virginia 22323-1450

Dear Sir:

This paper accompanies a Notice of Appeal and a Pre-Appeal Brief Request For Review. In the Review, Applicant respectfully requests consideration of the following remarks. As discussed below and in Applicant's Response to the most recent Office Action mailed on February 23, 2007, Applicant respectfully asserts that the legal requirements for establishing obviousness have been misapplied in all of the rejections contained within the Final Office Action mailed on December 16, 2006. Accordingly, Applicant respectfully asserts that a pre-appeal conference is appropriate. In view of the following remarks, Applicant respectfully requests the issuance of a Notice of Allowability for claims 1-5 and 14-20 in the present case.

In the Office Action, claims 1, 3-5, 14 and 16-18 were rejected as obvious over Gray (6,149,585) in view of the Preston Gralla reference "How The Internet Works", pages 145-157, 166-169 (hereinafter "Gralla") and further in view of Coli et al. (6,018,713). Applicant traverses this rejection for at least two reasons.

First, in any medical order generating system, to generate an order several different types of information will be required for the system to generate the order. For instance, in an exemplary case it may be that a specific order generating system requires between eight and

fifteen different types of information to facilitate order generation, the number of required information types depending on the type of order being created.

The present inventors have recognized that information required to generate an order can be neatly packaged in tags associated with clinical guidelines where the tag information can be provided to an order generating system whenever an order is requested. Thus, for instance, where twelve different types of information are required by a records application program to generate an order of a specific type, all of the required information can be provided in a tag. According to the present invention, a hyperlink or acceptance indicator that is associated with the tag is displayed for a browser user to view and, when the hyperlink is selected by the user, the active guidelines tag information is provided to an accumulator (e.g., a queue) for processing by the records application program to generate a suitable order. See the exemplary tags in the present specification at the bottom of page 7 and on page 8 that include several different types of information required to generate orders of different types.

Consistent with the comments above, amended claim 1 requires active guideline tags associated with clinical guidelines where the tags contain information usable by a patient records system to generate orders. In addition claim 1 requires an interpreter that receives the tags and converts the tags into hyperlinks and a browser that receives the hyperlinks and associated tags and that displays the hyperlinks for user selection, wherein, when a user invokes one of the hyperlinks, a URL router receives the tag associated with the invoked hyperlink and creates an action item for implementation by a records system to create an order.

Other ways to generate orders may be to require an order generating software user to enter all of the information required to generate an order or, providing additional software that can glean at least some of the information required to generate an order from some other database. These two ways of providing order generating information are clearly different than providing order generating information in pre-defined tags that are associated with clinical guidelines that are stored in a guideline server.

Turning to the prior art, while each of the three cited references teaches a browser based system, none of the cited references teaches or even remotely suggests tags that contain information usable by a patient records system to generate orders. While Gray teaches that an icon 476 can be selected by a browser user to schedule a procedure, Gray teaches no specifics about how icon selection causes the procedure to be scheduled. To this end, when Gray's icon 476 is selected, Gray teaches that the browser screen shot in Fig. 23 is next presented to obtain information from the user regarding who will perform the recommended procedure. After the Fig. 23 screen shot, the screen shot in Fig. 24 is provided to allow a user to select a facility at which the recommended procedure is to be performed. Gray teaches nothing else regarding how icon selection results in scheduling the procedure.

Applicant agrees with the Examiner that Gralla is combinable with Gray as Gray teaches a browser based system and Gralla generally teaches how browsers operate. To this end Gralla teaches that a typical browser works as follows. HTML pages are received by a browser which interprets HTML information and generates text, graphics and on screen selectable

hyperlinks. Each of the hyperlinks is associated with an underlying uniform resource locator (URL) which indicates the logical location of another HTML page, a file, or a specific function of an application program. When a hyperlink is selected (e.g., clicked on via a mouse controlled cursor), one of two things occurs. First, if the hyperlink is associated with another HTML page, the underlying URL is used to locate the other HTML page which is then served up via the browser for the user to view. Second, if the hyperlink is associated with a specific function of an application program stored at the URL associated with the hyperlink, the program is located and the function is performed. In some cases selection of a hyperlink can cause a function to be performed and may also cause another HTML page to be served up. For instance, where information is entered via a first HTML page that is to be used to perform a function, after the information is entered and the hyperlink is selected, the information may be sent to the URL associated with the selected hyperlink where an application program function is performed after which results of the function may be inserted into another HTML page and served up the browser user.

In each of the examples of what happens when a hyperlink is selected as described by Gralla above, while a URL associated with the hyperlink is used to identify the location of either another HTML page, a program function to be performed or a program to receive and process user input data, no information in the URL or a tag associated with the hyperlink is used to generate an order. In effect the URL is simply an address and the information therein is not content for creating an order. In the case where a browser user enters some information to be used by a program stored at a URL to perform a process, the information entered is not tag information that existed first in a clinical guidelines server and instead is information that is first provided or entered by the user. In this scenario a user has to enter information which is clearly different than having a user select a hyperlink associated with predefined information.

Thus, at best, when Gray and Gralla are combined, the combination teaches a system wherein, for instance, when the icon 476 is selected, the URL related to the selected icon is used to access the HTML page shown in Fig. 23 and where, after additional information is entered and the NEXT icon is selected on the page shown in Fig. 23, the URL associated with the NEXT icon is used to access the HTML page shown in Fig. 24. Continuing, after additional information is entered and the NEXT icon is selected via the page shown in Fig. 24, the entered information is provided to a processor that schedules a procedure. Here, none of the information used to schedule the procedure existed in pre-existing tags and all of the information was either entered by the browser user or was somehow provided by the application programs associated with the underlying URLs. In short, when taken together, Gray and Gralla do not teach or suggest tags associated with clinical guidelines where the tags include information used by a records system to generate orders. In addition, neither Gray not Gralla teach or suggest using the tag information to create orders.

Turning to Coli, Like Gralla and Gray, Coli fails to teach or suggest using pre-existing tag information that is associated with clinical guidelines to provide information to a records system for generating an order. In Coli, a browser interface is provided for a user to enter information that defines tests to be performed. The information entered is then transmitted to a processor for processing. Information entered by a user is completely different than pre-

defined tag information used to generate or create an order as required by claim 1. In addition, predefined tag information can eliminate data entry errors as well as facilitate compliance with facility and governmental regulations.

For at least the above reasons Applicant believes that amended claim 1 and claims that depend there form are novel and non-obvious over the cited references and requests allowance of each of those claims.

Second, claim 1 requires, among other things, a viewer including a web browser and a separate active guidelines interpreter wherein the interpreter receives active guidelines tags and converts the tags into hyperlinks which are passed on to the web browser and the browser receives the hyperlinks from the interpreter and displays the hyperlinks.

The distinction between the interpreter and the browser is important in the present application. To this end the present specification teaches that a conventional browser and the separate claimed interpreter treat active guidelines tags differently. In this regard, see page 5, line 24 through page 6, line 16, where it is taught that, on one hand, a conventional browser that does not include an interpreter cannot alone create a hyperlink using an active guideline tag. On the other hand and in contrast to conventional browser software, the claimed interpreter, as the label implies, interprets the tag and creates a hyperlink which can then be displayed by the browser. More specifically see the first and second examples at the bottom of page 5 and the top of page 6 that represent the browser view and the browser with interpreter view of the same active guideline tag, respectively, where the browser view at the bottom of page 5 does not include an "Order" hyperlink while the browser with interpreter view at the top of page 6 includes the "Order" hyperlink. Here, the idea is that some computing systems may be equipped to use the active guideline tags while other systems may not be equipped to use the tags and, where a system is not equipped to use the tags, a conventional browser should still be usable to access the clinical guidelines despite the fact that the hyperlinks associated with active guideline tags are not available.

Thus, as taught by the present specification, an active guideline tag is not interpretable by a conventional browser and an interpreter is required to interpret the tag and generate a hyperlink which may then be displayed by a browser.

Turning to the cited prior art, none of the prior art references cited teaches or suggests a system that includes an interpreter as well as a separate browser. To this end, the Examiner only cited Gralla as teaching an interpreter and a browser. Upon a detailed analysis of Gralla it can be seen that Gralla only teaches a conventional browser and fails to teach or suggest an interpreter that can interpret an active guideline tag. Consistent with this understanding of Gralla, the Examiner indicates in the most recent Office Action that the browser in Gralla performs the steps of both an interpreter and a conventional browser (see the last subparagraph on page 3 of the most recent Office Action where the Examiner indicates that the web browser is the active guideline interpreter). Thus, Gralla fails to teach or suggest an interpreter in addition to a browser.

Turning to Gray and Coli, neither of those references teaches or suggests a viewer that includes an interpreter that is separate from a browser. Because none of the references cited teaches or suggests an interpreter that is separate from a browser where the interpreter uses active guideline tags to generate a hyperlink which is then provided to the browser for display, when combined, the references cannot possibly teach the claim 1 limitations and Applicant requests that the rejection of claim 1 be withdrawn.

For at least this additional reason Applicant believes claim 1 and claims that depend there from are distinct over the art cited and requests that the rejection be withdrawn.

Each of claims 14 and 17 include limitations similar to the limitations of claim 1 and Applicant believes that each of claims 14 and 17 and the claims that depend there from are patentable over the cited references for the same reasons that claim 1 is patentable and requests allowance of each of those claims.

Applicant has introduced no new matter in making the above remarks. In view of the above remarks, Applicant believes claims 1-5 and 14-20 of the present application recite patentable subject matter and allowance of the same is requested. No fee in addition to the fees already authorized in this and accompanying documentation is believed to be required to enter this amendment, however, if an additional fee is required, please charge Deposit Account No. 17-0055 in the amount of the fee.

Respectfully submitted,

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Date: 4-19-07

By: _____

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